

14 days prior to the end of AEDPA's one-year limitations period -- he filed a motion to vacate his conviction pursuant to N.Y. C.P.L.R. 440.10 that asserts some of the same claims offered in the instant petition. He states that this 440.10 motion was denied on June 18, 2007, and that leave to appeal that decision was denied by a judge of the Appellate Division on October 2, 2007. The tolling provided for by 28 U.S.C. § 2244(d)(2) ceased as of that date. Piper's petition is accompanied by a sworn statement reporting that he provided his petition to prison authorities for mailing on October 10, 2007. The petition was received by the Pro Se Office on October 22, 2007.

The Court having concluded that the petition should not be summarily dismissed pursuant to Rule 4 of the Rules governing Section 2254 cases in the United States District Courts, it is hereby

ORDERED that the respondent file an answer to the petition or other pleading in response thereto, along with the record on appeal, appellate briefs, and relevant trial and post-conviction records and transcripts, no later than March 7, 2008.

IT IS FURTHER ORDERED that the Clerk of Court serve copies of this Order and of the petition by certified mail upon the respondent and the District Attorney of Bronx County.

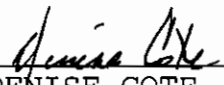
IT IS FURTHER ORDERED that petitioner shall have thirty days from the date on which he is served with respondent's

answer to file a response. The petition will be considered fully submitted as of that date.

IT IS FURTHER ORDERED that this action is referred to Magistrate Judge Ellis. All future correspondence and requests should be sent to the attention of Judge Ellis.

SO ORDERED:

Dated: New York, New York
January 8, 2008



DENISE COTE
United States District Judge